

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Pacific Gas and Electric Company

Docket Nos. ER01-1639-000
ER01-1639-001
ER01-1639-002
ER01-1639-003
ER01-1639-004
ER01-1639-006
ER01-1639-007

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued January 6, 2006)

1. On November 18, 2005, Pacific Gas & Electric Company (PG&E) and the Western Area Power Administration (Western) filed a Settlement Package comprised of an Offer of Settlement, a Settlement Agreement (I), and a Settlement Agreement (II) (Settlement) to resolve all remaining issues between PG&E and Western in the above-referenced dockets. Trial Staff filed comments in support of the Settlement on November 28, 2005. No other comments were filed. On December 7, 2005, the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.

2. The Settlement resolves issues related to PG&E's proposed rate increase under section 205 of the Federal Power Act (FPA)¹ initiated on March 28, 2001.² The Settlement provides that PG&E will withdraw as moot its proposed changes to increase rates for transmission services and to pass through to Western charges assessed by California Independent Operator Corporation (ISO), including the pass-through of Scheduling Coordinator (SC) costs, Reliability Service (RS) charges and Grid

¹ 16 U.S.C. § 824d (2004).

² *Pacific Gas and Electric Co.*, 95 FERC ¶ 61,273 (2001).

Management Charges (GMC). Instead, pursuant to the Settlement, PG&E submits revised rate sheets to reflect the rates in effect for base transmission services provided by PG&E on behalf of Western for the period October 28, 2001 through December 31, 2004. Also, the Settlement provides for certain payments and credits pursuant to its terms.

3. The Settlement is in the public interest and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding.

4. Pursuant to the Settlement, the following are rendered moot and are withdrawn in their entirety: (A) from PG&E's March 28, 2001 filing in Docket No. ER01-1639-000: (1) the proposed changes to PG&E Rate Schedule FERC No. 79, which is Exhibit PGE-18B (Volume 2A); (2) PG&E's Scheduling Coordinator Costs Pass-Through Rate Appendix, which is Exhibit PGE-18C (Volume 2B); (3) PG&E's Reliability Services Proposed FERC Rate Schedule for Western, which is Exhibit PGE-36 (Volume 20); (4) PG&E's GMC Pass-Through Tariff, filed as an amendment to Contract 2948A, which is Exhibit PGE-35 (Volume 19); and (B) from PG&E's July 28, 2004 filing in Docket No. ER01-1639-006: (1) Rate Schedule FERC No. 79, section 205 Proposed Changes Redline and Clean and the Scheduling Coordinator Costs Pass-Through Rate Appendix and Reference Documents, which is Exhibit PGE-18; and (2) PG&E's Reliability Services Proposed FERC Rate Schedule Changes for Western, which is Exhibit PGE-38.

5. The Commission also makes clear, as requested in the Settlement, that the revised tariff sheets contained in Exhibit A to Settlement Agreement (II) reflect the specified rates in effect for base transmission services provided by PG&E on behalf of Western during the period October 28, 2001 through 12:01 a.m. Pacific Standard Time, January 1, 2005.³

6. This order terminates Docket Nos. ER01-1639-000, ER01-1639-001, ER01-1639-002, ER01-1639-003, ER01-1639-004, ER01-1639-006, and ER01-1639-007.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

³ The rates in effect during that period for base transmission services provided by PG&E on behalf of Western shall be as follows. *For Contract 2948A*: Rate Schedule A— \$1.501/kW-month; Rate Schedule B— \$5.764/kW-month. *For the Delta Contract*: Rate Schedule C— \$0.534/kW-month. *For the Cities Contract*: Rate Schedule F— \$1.941/kW-month.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

The order accepts for filing a statement that provides, in relevant part: “It is PG&E’s and Western’s intent, with respect to the specific issues resolved in the Offer of Settlement, that the Offer of Settlement cannot be changed unless a showing is made that the public interest requires it.” Therefore, I disagree with this order to the extent that the *Mobile-Sierra* public interest standard applies where a modification is proposed by the Commission or by a non-Party.

	_____ Suedeen G. Kelly
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